



2/14/12 Insurance Committee Hearing Testimony HB-5013

Good Afternoon.

I am Kevin Galvin. I am a Small Business owner of 30 years and Chair of Small Business For A Healthy Connecticut. I am here today to speak to the proposed legislation HB-5013. We appreciate that this legislation is before this committee as early in the legislative session as it is. From our prospective this legislation is very timely.

I'm sure we all can agree we are well past the point of debating how and why the composition of the Exchange Board evolved the way it did and how decisions are being made within the Exchange.

We urge you to address or "fix" several areas of how our Exchange Board operates with this legislation. There are several key areas that need attention.

Composition:

What we need to be aware of is our Exchange Board with respect to composition has drifted farther from the federal regs than any other exchange board in the country. We feel a reasonable adjustment to the Boards composition would be:

Adding 2 voting small business members

Adding 2 voting consumer members

Adding our Health Care Advocate as a voting member

Our Exchange Board needs to reflect the people it is serving. Not only is the visual important but the insight and experiences of Small Businesses and consumers can do nothing but help the decision making process and what should be an organic evolution of the Organization. When speaking recently with someone close to the day to day operation one of our neighboring state's Exchange Board whose composition is almost completely made up of Small Businesses said "I don't know how we would have gotten this far without them. Decisions come from a practical non-political place and just make sense. You need some Small Business folks on that Board."

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I must add on a personal note that with small business being the largest employer group in the state to have one small business voting member on our Board is an embarrassment. What is even a greater embarrassment is that our Health Care Advocate who oversees what is arguably one of the most successful Health Care Advocacy Departments in the country is only allowed in the room as a non-voting member. This is shameful.

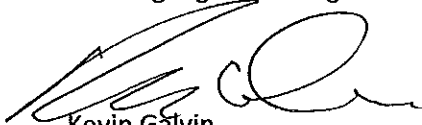
#### Public Trust:

Being mindful of the public's generally negative opinion of insurers we all need to agree that gaining public trust is key in the success of the Exchange Board as well as Health Care Reform in general. We feel there is enough insurance presence and would hope to see:

A CEO be brought on that is not from the insurance industry. This person should certainly have the skills to run a large multi faceted operation but also needs the ability to deal with insurers not as an insider but from the experiences from outside. This person is also going to be the face of the Exchange. This person has to be able to instill trust and faith to the potential insured so we don't have more folks in the safety net than in the Exchange. This person also needs a proven record of educating consumers.

We also need safe guards to insure vested interests like CBIA do not have an unfair advantage thru lobbying and other efforts to ultimately undermine the need for our Exchange to be Public, Transparent and foster genuine competition. I find it fascinating that CBIA who fought every inch of Health Care Reform as we know it now wants to be an integral part of it. I here today as a civilian with my 10 years experience as an advocate, with my all volunteer board and 30 years of running small businesses and I just can't get my head around the notion of 36% of any organization's dues would go to lobbying as does CBIA's. As you are well aware generally speaking most of Connecticut's Small Businesses do not have the time to get involved politically. We need protections for them to insure their interests are in balance with high dollar lobbying efforts.

We urge you to make the changes both I and others have brought to you today. We also urge our legislature to pass this bill as soon as possible. The next few weeks and months is crucial time for our Exchange. Lasting decisions are being made right now that need the insight, trust and transparency that our language will bring to our Exchange.



Kevin Galvin  
Chairman

Proposed substitute language for HB-5013

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Subsections (a) to (c), inclusive, of section 38a-1081 of the 2012 supplement to the general statutes are repealed and the following is substituted in lieu thereof (Effective from passage):

(a) There is hereby created as a body politic and corporate, constituting a public instrumentality and political subdivision of the state created for the performance of an essential public and governmental function, to be known as the Connecticut Health Insurance Exchange. The Connecticut Health Insurance Exchange shall not be construed to be a department, institution or agency of the state. The exchange shall serve both qualified individuals and qualified employers.

(b) (1) (A) The powers of the exchange shall be vested in and exercised by a board of directors, which, [until July 1, 2012,] shall consist of [eleven] sixteen voting members. The appointment of [the initial] board members shall be as follows:

[[A]] (i) The Governor shall appoint two board members, one of whom shall have expertise in the area of individual health insurance coverage and shall serve for a term of three years and one of whom shall have expertise in issues relating to small employer health insurance coverage and shall serve for a term of two years;

[[B]] (ii) The president pro tempore of the Senate shall appoint one board member who shall have expertise in the area of health care finance and shall serve for a term of four years;

[[C]] (iii) The speaker of the House of Representatives shall appoint one board member who shall have expertise in the area of health care benefits plan administration and shall serve for a term of four years;

[[D]] (iv) The majority leader of the Senate shall appoint one board member who shall have expertise in the health care delivery systems and shall serve for a term of two years;

[[E]] (v) The majority leader of the House of Representatives shall appoint one board member who shall have expertise in the area of health care economics and shall serve for a term of one year;

[[F]] (vi) The minority leader of the Senate shall appoint one board member who shall have expertise in health care access issues faced by self-employed individuals and shall serve for a term of three years;

[[G]] (vii) The minority leader of the House of Representatives shall appoint one board member who shall have expertise concerning barriers to individual health care coverage and shall serve for a term of two years;

[[H]] (viii) The Commissioner of Social Services, the Special Advisor to the Governor on Healthcare Reform, the Healthcare Advocate, and the Secretary of the Office of Policy and Management, or their designees, who shall serve as ex-officio voting board members; and

[[I]] (ix) The Insurance Commissioner, and the Commissioner of Public Health [and the Healthcare Advocate], or their designees, who shall serve as ex-officio nonvoting board members

(x) The Sustinet Health Care Cabinet, created in Section 2b(1) of Public Act 11-53, by majority vote of voting members, shall appoint four members, two of whom shall represent small business owners and shall serve for a term of four years, and two of whom shall represent uninsured and underinsured consumers and shall serve for a term of four years.

[(B) (i) On and after July 1, 2012, the board of directors shall consist of fourteen voting members. The initial appointment of additional board members shall be as follows, and such appointments shall not affect the terms of the board members set forth in subparagraph (A) of this subdivision:

(I) The president pro tempore of the Senate shall appoint one board member who shall be a small employer and shall serve for a term of two years; and

(II) The speaker of the House of Representatives shall appoint one board member who shall be a consumer of specialized health care services for a disability, a chronic illness or special needs, or of health care services, and shall serve for a term of two years.

(ii) On and after July 1, 2012, the Healthcare Advocate or the Healthcare Advocate's designee shall serve as an ex-officio voting board member.]

(2) (A) No appointee shall be employed by, a consultant to, a member of the board of directors of, affiliated with or otherwise a representative of (i) an insurer, (ii) an insurance producer or broker, (iii) a health care provider, or (iv) a health care facility or health or medical clinic while serving on the board or on the staff of the exchange. For purposes of this subdivision, "health care provider" means any person that is licensed in this state, or operates or owns a facility or institution in this state, to provide health care or health care professional services in this state, or an officer, employee or agent thereof acting in the course and scope of such officer's, employee's or agent's employment.

(B) No board member shall be a member, a member of the board or an employee of a trade association of (i) insurers, (ii) insurance producers or brokers, (iii) health care providers, or (iv) health care facilities or health or medical clinics while serving on the board or on the staff of the exchange.

(C) No board member shall be a health care provider unless such member receives no compensation for rendering services as a health care provider and does not have an ownership interest in a professional health care practice.

(D) The Office of State Ethics under Section 1-81 of the general statutes shall have duties to enforce provisions in this Section.

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(c) (1) [All initial appointments of the board members set forth in subparagraph (A) of subdivision (1) of subsection (a) of this section shall be made not later than July 1, 2011. All initial appointments of the board members set forth in subparagraph (B)(i) of subdivision (1) of subsection (a) of this section shall be made not later than July 1, 2012.] Following the expiration of such initial terms, subsequent board [members] member terms shall be for four years. Any vacancy shall be filled by the appointing authority for the balance of the unexpired term. If an appointing authority fails to make an initial appointment, or an appointment to fill a vacancy within ninety days of the date of such vacancy, the appointed board members may make such appointment by a majority vote. Any board member previously appointed to the board or appointed to fill a vacancy may be reappointed in accordance with this section. Any board

member may be removed for misfeasance, malfeasance or wilful neglect of duty at the sole direction of the appointing authority.

(2) As a condition of qualifying as a member of the board of directors, each appointee shall, before entering upon such member's duties, take and subscribe the oath or affirmation required under section 1 of article eleventh of the Constitution of the state. A record of each such oath shall be filed in the office of the Secretary of the State.

(3) Appointed board members may not designate a representative to perform in their absence their respective duties under sections 38a-1080 to 38a-1090, inclusive. The Governor shall select a chairperson from among the board members and the board members shall annually elect a vice-chairperson. The chairperson shall schedule the first meeting of the board, which shall be held not later than August 1, 2011. Meetings of the board of directors shall be held at such times as shall be specified in the bylaws adopted by the board and at such other time or times as the chairperson deems necessary. Any board member who fails to attend more than fifty per cent of all meetings held during any calendar year shall be deemed to have resigned from the board.

(4) [Six] Until July 1, 2012, six board members shall constitute a quorum for the transaction of any business or the exercise of any power of the exchange. On and after July 1, 2012, eight board members shall constitute a quorum for the transaction of any business or the exercise of any power of the exchange. For the transaction of any business or the exercise of any power of the exchange, the exchange may act by a majority of the board members present at any meeting at which a quorum is in attendance. No vacancy in the membership of the board of directors shall impair the right of such board members to exercise all the rights and perform all the duties of the board. Any action taken by the board under the provisions of sections 38a-1080 to 38a-1090, inclusive, may be authorized by resolution approved by a majority of the board members present at any regular or special meeting, which resolution shall take effect immediately unless otherwise provided in the resolution.

(5) Board members shall receive no compensation for their services but shall receive actual and necessary expenses incurred in the performance of their official duties.

(6) Subject to the provisions of subdivision (2) of subsection (b) of this section, board members may engage in private employment or in a profession or business, subject to any applicable laws, rules and regulations of the state or federal government regarding official ethics or conflicts of interest.

(7) Notwithstanding any provision of the general statutes, it shall not constitute a conflict of interest for a trustee, director, partner or officer of any person, firm or corporation, or any individual having a financial interest in a person, firm or corporation, to serve as a board member of the exchange, provided such trustee, director, partner, officer or individual shall abstain from deliberation, action or vote by the exchange in specific request to such person, firm or corporation.

(8) Each board member shall execute a surety bond in the penal sum of fifty thousand dollars, or, in lieu thereof, the chairperson of the board shall execute a blanket position bond covering each board member, the chief executive officer and the employees of the exchange, each surety bond to be conditioned upon the faithful performance of the duties of the office or offices covered, to be executed by a surety company authorized to transact business in this state as surety and to be approved by the Attorney General and filed in the office of the Secretary of the State. The cost of each such bond shall be paid by the exchange.

(9) No board member of the exchange shall, for one year after the end of such member's service on the board, accept employment with any health carrier that offers a qualified health benefit plan through the exchange.

(d) (1) With respect to the initial appointment of a chief executive officer of the exchange, the board of directors shall nominate three candidates to the Governor, who shall make a selection from such nominations. After such initial appointment, the board shall select and appoint subsequent chief executive officers. The chief executive shall have no prior employment with an insurer or a trade association representing insurers.

(2) The chief executive officer shall be responsible for administering the exchange's programs and activities in accordance with the policies and objectives established by the board. The chief executive officer (A) may employ such other employees as shall be designated by the board of directors, and (B) shall attend all meetings of the board, keep a record of all proceedings and maintain and be custodian of all records, books, documents and papers filed with or compiled by the exchange.

(e) (1) No employee of the exchange shall be a member, a member of the board or an employee of a trade association of (A) insurers, (B) insurance producers or brokers, (C) health care providers, or (D) health care facilities or health or medical clinics while serving on the board or on the staff of the exchange.

(2) No employee of the exchange shall be a health care provider unless (A) (i) such employee receives no compensation for rendering services as a health care provider, or (ii) the chief executive officer approves the hiring of such provider as an employee on the basis that such provider fills an area of need of expertise for the exchange, and (B) such employee does not have an ownership interest in a professional health care practice.

(3) No employee of the exchange shall, for one year after terminating employment with the exchange, accept employment with any health carrier that offers a qualified health benefit plan through the exchange.

(4) Any employee of the exchange who sells, solicits or negotiates insurance or will sell, solicit or negotiate insurance to individuals and small employers shall be licensed, not later than one year after such employee begins employment with the exchange, as an insurance producer under chapter 701a of the general statutes.

(f) The board may consult with such parties, public or private, as it deems desirable or necessary in exercising its duties under sections 1 to 13, inclusive, of this act.

(g) The board may create such advisory committees as it deems necessary to provide input on issues that may include, but are not limited to, customer service needs and insurance producer concerns.

Sec. 3. (a) The board of directors of the exchange shall adopt written procedures, in accordance with the provisions of section 1-121 of the general statutes, for: (1) Adopting an annual budget and plan of operations, including a requirement of board approval before the budget or plan may take effect; (2) hiring, dismissing, promoting and compensating employees of the exchange, including an affirmative action policy and a requirement of board approval before a position may be created or a vacancy filled;

(3) acquiring real and personal property and personal services, including a requirement of board approval for any nonbudgeted expenditure in excess of five thousand dollars; (4) contracting for financial, legal, bond underwriting and other professional services, including a requirement that the exchange solicit proposals at least once every three years for each such service which it uses; (5) issuing and retiring bonds, bond anticipation notes and other obligations of the authority; (6) establishing requirements for certification of qualified health plans that include, but are not limited to, minimum standards for marketing practices, network adequacy, essential community providers in underserved areas, accreditation, quality improvement, uniform enrollment forms and descriptions of coverage, and quality measures for health benefit plan performance; and (7) implementing the provisions of sections 1 to 13, inclusive, of this act or other provisions of the general statutes. Any such written procedures adopted pursuant to subdivision (7) of this section shall not conflict with or prevent the application of regulations promulgated by the Secretary under the Affordable Care Act.

(b) The CT Health Insurance Exchange shall not contract with any entity with significant lobbying activities under section 1-91 of the general statutes. No funds under this Section may be used for lobbying purposes. No contractor may require individuals to pay membership fees to secure services in the CT Health Insurance Exchange. All contractors and subcontractors shall be subject to the Freedom of Information Act section 1-210 of the general statutes.



## **Pass the Health Insurance Exchange fix bill NOW**

### **Why getting the Exchange right matters for Connecticut**

In 2014, under national health reform, every state resident will be required to have health insurance. The individual mandate only works if there is a fair and open health insurance marketplace – the CT Health Insurance Exchange. The Exchange will cover one in ten Connecticut residents. 140,000 people eligible for federal subsidies will have to purchase coverage in the exchange. The Board now making critical operational decisions is dominated by insurance company representatives and, contrary to federal regulations, has no voting consumer members. We need an independent, credible Exchange making the best decisions for consumers and small businesses, not politically powerful interests.

### **Why do we need to fix the Exchange now?**

The Board is right now hiring and interviewing for the CEO and eight other senior staff positions. The Board's consultant has recommended turning the small business exchange over to CBIA. CBIA's Health Connections offerings are not affordable and lack the value small businesses need. CBIA is closely tied to the insurance industry and opposed health reform. We need a public, transparent alternative to CBIA to foster competition. Turning the Exchange over to vested interests that opposed reform would guarantee failure. These and other decisions being made now will lock in the Exchange's direction for the future.

### **Public trust in the Exchange is critical**

People forced to buy insurance have to believe that they aren't wasting their money; that they aren't paying for more empty coverage. If the public doesn't trust the integrity of the Exchange, more people will "choose" to pay the penalty, remain uninsured and end up in the publicly-funded safety net. Vested interests undermine public trust and have no place in the Exchange.

### **Critical decisions must be independent**

The Board must develop standards for which insurance plans get into the Exchange including quality, administrative cost limits, limits on profits, regulation of marketing materials, transparency, provider panels, etc. The Exchange must negotiate prices and benefits on behalf of consumers and small businesses. It is critical to get public education right. Insurance has been very complex and the public is very skeptical that any insurance is going to be there when they need it. Monitoring systems must be robust and able to detect deceptions that happen in the real world.

**We must get this right. Pass the Health Insurance Exchange Bill NOW.**